

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Garfield	Team: Squad #10	CCRB Case #: 202008469	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/28/2020 6:45 PM, Monday, 12/28/2020 7:45 PM	Location of Incident: § 87(2)(b) and the 103rd PCT stationhouse	Precinct: 103	18 Mo. SOL 6/28/2022	EO SOL 6/28/2022	
Date/Time CV Reported Mon, 12/28/2020 9:32 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 12/28/2020 9:32 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Dunn	14637	955894	103 PCT
2. POF Jill Ragonesi	02957	955963	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Lance Walter	30215	951417	103 PCT
2. POM Reinaldo Alvarez	15342	927853	103 PCT
3. POM Daniel Drelich	12763	966547	103 PCT
4. SGT Matthew Doran	04559	952695	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Dunn	Abuse: At § 87(2)(b) in Queens, Police Officer Michael Dunn damaged § 87(2)(b)'s property.	
B.POM Michael Dunn	Abuse: Police Officer Michael Dunn searched the basement apartment of § 87(2)(b) in Queens.	
C.POM Michael Dunn	Abuse: At § 87(2)(b) in Queens, Police Officer Michael Dunn failed to provide § 87(2)(b) with a business card.	
D.POF Jill Ragonesi	Abuse: At the 103rd Precinct stationhouse, Police Officer Jill Ragonesi did not process § 87(2)(b)'s complaint regarding officers.	

Case Summary

On December 29, 2020, § 87(2)(b) called the CCRB to file the following complaint.

On December 28, 2020, at approximately 6:45 p.m., PO Michael Dunn, PO Lance Walter, PO Reinaldo Alvarez, and PO Daniel Drelich, all of the 103rd Precinct, responded to a 911 call at § 87(2)(b) in Queens.

The 911 caller, who was also the landlord of the house, told the 911 operator that § 87(2)(b), his downstairs tenant, had sprayed him in the eyes with an unknown chemical. He did not request medical attention. All four officers then went downstairs to speak with § 87(2)(b).

PO Dunn knocked on the door to § 87(2)(b)'s apartment, who told the officers to leave. After a few minutes, PO Dunn attempted to open § 87(2)(b)'s door and found it to be locked. PO Dunn and PO Walter said that they needed § 87(2)(b) to open her door to “visually see” that she was unhurt. In the process of opening her door, the chain lock was damaged (**Allegation A: Abuse of Authority – Property damage**, § 87(2)(g)). § 87(2)(b)'s door was opened which gave PO Dunn access to see inside of § 87(2)(b)'s apartment (**Allegation B: Abuse of Authority: Search of premises**, § 87(2)(g)). After determining that § 87(2)(b) was unhurt, PO Dunn left without providing a business card (**Allegations C: Abuse of Authority: Failure to provide RTKA card**, § 87(2)(g)).

At approximately 7:45 p.m. on the same evening, § 87(2)(b) went to the 103rd Precinct stationhouse to file a complaint on PO Dunn and PO Walter. PO Ragonesi, also of the 103rd Precinct, allegedly told her that she had no reasonable complaint to file (**Allegation D: Abuse of Authority – Refusal to process civilian complaint**, § 87(2)(g)).

No summons was issued, and no arrest was made.

There is BWC from PO Dunn, PO Walter, PO Alvarez, and PO Drelich (**BRs 07, 08**). Relevant portions will be discussed below.

Findings and Recommendations

Allegation (A) Abuse of Authority: At § 87(2)(b) in Queens, Police Officer Michael Dunn damaged § 87(2)(b)'s property.

Allegation (B) Abuse of Authority: Police Officer Michael Dunn searched the basement apartment of § 87(2)(b) in Queens.

It was undisputed that § 87(2)(b)'s landlord, who could not be identified by the investigation, called 911 on her. The landlord's 911 call was obtained by the investigation (**BRs 03, 04**) confirming that he requested EMS at 7:22 p.m. due to chest pain and shortness of breath from a chemical that he stated was sprayed in his eye by § 87(2)(b). It was also undisputed that PO Walter and PO Dunn left without providing § 87(2)(b) with business cards.

§ 87(2)(b) provided an intake (**BR 01**) and a phone (**BR 02**) statement in which she consistently stated that an officer (identified by the investigation as PO Dunn) pulled on her apartment door. § 87(2)(b) stated that she refused to open her door because she felt unsafe. PO Dunn asked her from behind the door if she was hurt, if she had a weapon, and if she was “mentally okay.” She told PO Dunn that she was fine and had no weapons, and to come back with a warrant, but he refused. She consistently stated that PO Dunn broke the chain lock on her door when he pulled it open.

§ 87(2)(b) provided more details in her phone statement. She said an officer (PO Dunn) knocked on her door and told her to open it several times. She was not sure how many times he requested she open her door. At some point PO Dunn began trying to pull § 87(2)(b)'s door open, to which § 87(2)(b) said, “Are you really trying to pull the door down?” PO Dunn pulled open § 87(2)(b)'s door and broke the chain lock that was attached to the door. § 87(2)(b) said that the lock was attached by a single screw to the doorframe and that the screw fell out when PO Dunn pulled open the door. When § 87(2)(b) complained of the lock, PO Dunn said, “We

had to make sure that you were okay.” She stated that PO Dunn and a second officer (identified by the investigation as PO Walter) were interacting with her and the two additional officers (PO Drelich and PO Alvarez) remained by the stairwell.

BWC confirmed that PO Drelich and PO Alvarez did not engage with § 87(2)(b) at any point during this incident. While PO Walter spoke with § 87(2)(b) only PO Dunn pulled on her door and so the allegations were only pleaded against him.

Both PO Walter (**BR 05**) and PO Dunn (**BR 06**) stated that they needed to open § 87(2)(b)'s door in order to see if she had sustained any possible injuries. Both officers described § 87(2)(b) as irate and loud. They also stated that § 87(2)(b) did not want to open her door because she was scared the officers were going to hurt her. Both officers also said they determined that § 87(2)(b) was “okay” by looking at her after her door was opened and seeing no visible injuries.

PO Walter said that this incident was more of a “wellness check” in the sense that officers needed to make sure that § 87(2)(b) was “okay.” He said that “procedurally” he could not ask § 87(2)(b) through a closed door if she was okay. PO Walter could not confirm if he stated this to § 87(2)(b) directly, other than just telling her that they needed to see that she was “okay.” PO Walter confirmed that PO Dunn attempted to open the door while the deadbolt was still attached. PO Walter then said that § 87(2)(b) “undid the deadbolt and opened the door” for them. PO Walter said § 87(2)(b) did not give the officers permission to open her door. PO Walter did not see PO Dunn damage § 87(2)(b)'s door at any point. PO Walter said he did not search inside § 87(2)(b)'s apartment after her door was opened.

PO Dunn (**BR 06**) stated that § 87(2)(b) willingly opened her door, and he did not recall attempting to open § 87(2)(b)'s door himself. He described § 87(2)(b)'s behavior as “erratic” and said that this – along with her yelling and refusing to open the door – led to him believe that she might be an EDP (Emotionally Disturbed Person). He added that § 87(2)(b) stated she was worried of police hurting her, which was an additional reason for him to believe that she might be an EDP. PO Dunn added that he needed to open § 87(2)(b)'s door to make sure she was uninjured, to check that she was not holding any weapons and that she was not going to harm herself or anyone else. When asked if he would need to visually check § 87(2)(b)'s surroundings, specifically inside her apartment, PO Dunn said he needed to see how § 87(2)(b) was acting, and if he deemed it erratic, he might enter and place her in handcuffs. After repeating the question, PO Dunn said that he did not need to assess § 87(2)(b)'s surroundings because he was only assessing if § 87(2)(b) was a threat to herself or others in that very moment.

In PO Walter's BWC, at the beginning of the video, officers speak to the landlord, who says that § 87(2)(b) sprayed a bottle of either perfume or chemicals on his back. A woman is seated in a living room. The man states that he experienced shortness of breath from the spray. He states that he only wants officers to speak with § 87(2)(b). At 4:27, officers are downstairs speaking with § 87(2)(b) through her closed door. § 87(2)(b) says she does not feel safe opening the door for officers because she does not want to be murdered by police, that she does not need to open the door for them, and requests they return with a warrant. PO Dunn says, “Miss, we just have to visually see - all we want to do is talk to you.” § 87(2)(b) says again that she will talk to the officers if they come back with a search warrant. PO Dunn replies, “Well the problem is, now that you're saying that we gotta make sure you're safe enough and nothing mentally wrong.” § 87(2)(b) replies, “Sir, I am totally fine.”

At 5:22, PO Walter says to PO Dunn, “Yeah, open it.” PO Dunn places his hand on § 87(2)(b)'s doorknob. § 87(2)(b) says, “Are you forcibly opening my door without a warrant, officer?” PO Dunn replies, “Miss, I'm just opening the door to make sure you're physically safe.”

At 5:33, PO Dunn asks, “Miss, you have no weapons, right?” § 87(2)(b) replies, “There's nothing in here, officer.”

At 5:37, § 87(2)(b)'s door opens partially (as the chain lock is on). PO Dunn has his hand on the doorknob. § 87(2)(b) says, “Let me unlock this so I can open the door.” She closes

the door and opens it. As she does so, the lock falls off the door. It is unclear if the lock falls off from PO Dunn's actions or not. PO Dunn opens § 87(2)(b)'s door further and her apartment is visible behind her.

After viewing BWC, PO Walter did not wish to amend or add to his previous statement. However, PO Dunn amended his statement. PO Dunn stated that he was considering § 87(2)(b) to be an EDP during this incident. When asked about his hand on § 87(2)(b)'s doorknob, PO Dunn stated that he was trying to see if her door was unlocked. He said that he was checking in case they determined § 87(2)(b) to be "mentally unfit" so they could "go in" and "physically see her." PO Dunn did not believe that he needed § 87(2)(b)'s permission to open her door because he needed to see that she was "mentally fit."

§ 87(2)(b) sent a photo of her lock after the incident, which shows the section of the lock that attaches to the door unattached. The lock does not appear to be broken, but rather not screwed into the door (**BR 09**).

§ 87(2)(g)
§ 87(2)(b). Further, § 87(2)(b) stated during her phone statement that the chain lock was merely unattached from the door, indicating that the lock might not have been properly installed in the first place. The photo § 87(2)(b) provided does not show extensive damage to her door, which would have indicated excessive force, and BWC footage does not clearly show the lock falling off the door, nor can PO Dunn's level of force to pull on the door be determined. § 87(2)(g)

Because § 87(2)(b)'s door opened outward and PO Dunn never stepped into her apartment, a premises entry allegation was not pleaded. However, a premises search allegation was pleaded as, by pulling and holding § 87(2)(b)'s door open, PO Dunn was able to view the inside of § 87(2)(b)'s apartment, an area where she had a reasonable expectation of privacy. PO Dunn's justification for pulling § 87(2)(b)'s door open was that he believed § 87(2)(b) could be an "EDP" or mentally unfit and that an emergency entry of her apartment may have been necessary if he observed her acting erratically.

Patrol Guide procedure 221-13 (**BR 20**) defines an emotionally disturbed person as someone who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. It adds that the safety of all persons involved is paramount in cases involving emotionally disturbed persons. If such person is dangerous to himself or others, force may be used when it is reasonable to prevent serious physical injury or death. Members of the service will only use the reasonable force necessary to gain control or custody of a subject.

According to People v. Rodriguez, 77 A.D.3d 280, 2010 (**BR 10**), officers are permitted to enter premises without a warrant if they reasonably believe that there is an emergency and an immediate need for their assistance for the protection of life or property and a reasonable basis to associate the emergency with the area being searched.

PO Dunn said that he needed § 87(2)(b)'s door open because he had to confirm that § 87(2)(b) was uninjured and was also concerned that she potentially could be an "EDP" with an intention to harm herself or others. However the BWC footage did not capture any indication that § 87(2)(b) was injured or required medical attention. PO Dunn went to her door to discuss a crime and only decided that she might be mentally unwell after she informed him that the officers could not enter without a warrant. Exercising her constitutional rights was not an indication that § 87(2)(b) was in distress or that she was a threat to herself or others. While the landlord alleged that § 87(2)(b) sprayed him with a chemical spray, there was no indication from the BWC that he sustained significant injuries and he only requested that the officers speak to § 87(2)(b) rather than arresting or removing her. This indicated that he was not afraid that § 87(2)(b) was a threat. PO Dunn also provided no additional reasons for believing that § 87(2)(b) was armed or an EDP. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: At § 87(2)(b) in Queens, Police Officer Michael Dunn failed to provide § 87(2)(b) with a business card.

It was undisputed that neither PO Dunn nor PO Walter provided § 87(2)(b) with a business card.

PO Dunn stated that the procedure for RTKA was to provide a card if a civilian asks for one or if a stop report is filed (**BR 06**).

Patrol Guide Procedure 203-09 (effective June 12, 2018) states that officers must “Offer pre-printed RIGHT TO KNOW BUSINESS CARD upon conclusion of law enforcement activities, except in cases when a summons is issued or an arrest is made, or exigent circumstances are present,” including “Search of persons or property, including vehicles” (**BR 11**).

New York City Admin Code 14-174 “Identification of police officers” states “During a law enforcement activity, an officer shall: 1. Identify himself or herself to the person who is the subject of such law enforcement activity by providing his or her name, rank and command; 2. Provide to such person an explanation of the reason for such law enforcement activity, unless providing such information would impair a criminal investigation; 3. Offer a business card to such person at the conclusion of any such activity that does not result in an arrest or summons.” It includes “Searches of persons or property, including vehicles” under the definition of “law enforcement activity” (**BR 12**).

§ 87(2)(g)

Allegation (D) Abuse of Authority: At the 103rd Precinct stationhouse, Police Officer Jill Ragonesi did not process § 87(2)(b) s complaint regarding officers.

In her phone statement (**BR 02**), § 87(2)(b) stated that she went to the 103rd Precinct stationhouse to file a complaint on PO Walter and PO Dunn. There, a female officer who was working at the front desk told her that there was “nothing to file.” § 87(2)(b) took a photo of the poster for the CCRB and left the stationhouse.

§ 87(2)(b) also described the officer as a white (maybe Italian) female, 33 years old, medium/heavy build, black hair, and in uniform.

PO Ragonesi was identified from the 103 Precinct Roll Call, which listed no other female officers working as desk sergeant, T/S operator, stationhouse security, or command supervisor (**BR 13**). PO Ragonesi is also listed as a white female, 34 years old, 160 pounds, with dark brown hair, which generally matches § 87(2)(b) s description (**BR 14**).

PO Ragonesi (**BR 15**), who confirmed in her interview that she was the T/S operator that day, had no recollection of refusing to process § 87(2)(b) s complaint. She could not think of any other officer that worked the front desk that matched § 87(2)(b) s officer description. She also could not remember when she took her meal break that day nor who covered for her. She also stated that there was no record anywhere of that information. She stated that she does interact with members of the public while T/S operator, and if a civilian came to file a complaint against an officer, she would either direct them to the desk sergeant or refer them to CCRB.

Sgt. Doran (**BR 16**) was also interviewed for this investigation. He confirmed that he was the desk sergeant that day but had no recollection of the incident. He stated he did not refuse to process § 87(2)(b) s complaint.

The investigation was able to determine by a preponderance of the evidence that PO Ragonesi was the subject officer that § 87(2)(b) attempted to file a complaint with. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party. (BR 17)
- PO Dunn has been a member of service for seven years and has been a subject in four CCRB complaints and ten allegations, none of which were substantiated. § 87(2)(g)
- PO Ragonese has been a member of service for seven years and has been listed as a subject in four complaints and eleven allegations, none of which were substantiated.
 - § 87(2)(g), § 87(4-b)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined mediation.
- On August 24, 2021, a FOIL request for any Notice of Claim regarding this incident was § 87(2)(b)

Squad: 10

Investigator: Carter Garfield Inv. Carter Garfield 9/17/2021
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 9/22/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date